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Extracts From Correspondence Between Japan and Hawaii.

MINISTER COOPER'S EFFORTS

Letters From Count Okuma and the Replies.

No Claim Made By Japan—Asks Recognition of Principles of Indemnification—Offer to Arbitrate.

For several weeks past items of news bearing on the Japan-Hawaii difficulty have appeared in San Francisco papers and purporting to come from officials at Washington. The fact that the press of Honolulu has been denied information by the Foreign Office here has made the appearance of these items in the foreign press more aggravating to the public generally and the reporters particularly. It has been mooted for some time that it has been the intention of Minister Cooper to make public all matters connected with the case, and that he has been waiting for a communication from Washington before doing so. This communication was expected by the Australia, but it failed to arrive, and the Minister concluded to wait the arrival of the Moana. His plans were evidently changed again on reading the newspaper item concerning this Government's offer to arbitrate, for yesterday morning he notified the press to meet him in his office at 11 o'clock. As a preface Minister Cooper said:

"The correspondence opened with a protest from H. I. J. M.'s Minister Resident Shimamura at the action of the Hawaiian Government in rejecting certain immigrants who came by the Shinshu Maru. In fact, almost the entire correspondence," continued the Minister, "has been carried on with reference to this particular ship, although the other steamers have been mentioned incidentally, as the facts are the same in the three cases."

"Minister Shimamura's official protest came to me on March 20th, and occurred through the captain of the Shinshu Maru notifying him that the immigrants were to be taken back on his ship. The Minister based his protest upon the stipulation in the treaty between the two countries. After a preliminary correspondence, I replied to his protest by a letter dated April 22.

"In this I announced the position of the Government and gave him the reasons why the immigrants by the Shinshu Maru and Sakura Maru were not allowed to land. If you will remember, these immigrants were of three classes. First, those who had contracts in writing, with those who had no funds in this country and who had no funds in their possession.

"Second, those who had a memorandum of agreement with the Hiroshima Immigration Company, or the Morioka Immigration Company.

"Third, those who came independent of any immigration company. As to the first class, said Minister Cooper, previous to the arrival of the Shinshu Maru, W. J. Gallagher, who represented himself as being associated with the immigration company, called here and stated that the usual procedure had not been complied with, and asked for the reasons. This request was denied, because they were not coming under the rule provided for in Section 1 of Act 10, of the laws of the Provisional Government. When the steamer arrived, it was found impossible to make a proper investigation on the steamer, so the immigrants were landed at Quarantine Station.

"It was then found that 146 immigrants had contracts, to perform labor in this country, which had been executed previously to their leaving Japan. It also appeared that the passage of these immigrants had been prepaid by the company and that they were entirely without funds.

All of these were refused landing, because their contracts had not been approved by the Board of Immigration. The entire number of immigrants but 37 were permitted to land for the reason of their having approved contracts. "As to those of the second class, there were 317 immigrants on board who were in possession of \$50 each, but denied the right to land for the reason that they had been recruited by the immigration companies, with whom they had made a contract to perform labor in this country. The ruling on this point was to the effect that it was an unlawful undertaking on behalf of the immigration companies, and also the provisions of Section 1 of Act 17, Laws of 1895. Exceptions were, of course, made to those who had been here before and to females having relatives here.

Independently of any company and possessed the necessary qualifications to land were permitted to do so. As to the Sakura Maru, there were 163 who possessed memoranda of agreement with the Morioka Immigration Company similar to those who came by the Shinshu Maru, and the same ruling was made and the same exceptions to the rule after the policy of this Government has continued on lines heretofore set forth to representatives of your Government."

"A few days later, April 6th, I think, Minister Shimamura replied, and expressing the usual felicitations, said that in Japan's dealings with Hawaii, small as it is, has been and will continue to be of that high order of conduct and to the orderly status of the community and more powerful nations. Further along the Minister stated that the matter would be submitted to his Government for determination, but he continued to point to what he believed was a violation of the treaty, for he said: "Referring to the immigrants of the class of the 1st, although they may not have complied technically with every requirement of the Board of Immigration, yet they have with the spirit of it."

"Taking a larger view of the matter," continued Minister Shimamura, "would it not have been best not to have imposed upon the ignorant people after they have broken up their homes and sold their effects, only to be rejected here, simply because they have not complied with the Board of Immigration? You have been mistaken in the Minister's statement regarding the second class, as to the nature of that memorandum of agreement. It was a result of the general laws of the Japanese Government pertaining to all immigrants from Japan, so as to provide that which might be serious suffering to the Japanese subjects in this country. This regulation should have the approval of your Government as providing a means of support for the immigrant after he arrives here. This class came, not as contract labor, but as free immigrants. Having received the required visa in accordance with the treaty, they should have been permitted to land."

"I cannot see, continued Minister Shimamura in this same letter, that distinction should be made between Japanese immigrants who have resided in this country and those who have not."

"Following this," said Minister Cooper, "he dealt with the proposition to suspend immigration by alteration of the law. Under date of Tokyo, April 19th, and Shimamura on May 11th, a letter, written by Count Okuma, Japanese Minister of Foreign Affairs, in which he re-opens the subject of the immigrants by the Shinshu Maru on April 18th. In this communication Count Okuma stated that this Government that he has given thoughtful and deliberate consideration to all the questions involved and, although influenced by a friendly desire to accord due weight to every circumstance, the Government considers that the inhuman acts committed by the Hawaiian Government in the application of the treaty of 1896 and the most favored nation principle to trade between the force between Hawaii and other countries, Japanese subjects, absolutely and equally with Hawaiian citizens are open at liberty, freely and securely to enter with their ships and cargoes all places, ports and rivers in Hawaii which are open to foreign commerce."

"They have the right to travel, trade, reside and exercise every profession or industry in all parts of Hawaii."

"They are entitled to constant and complete protection from the Hawaiian Government for their persons and property, as well as in regard to civil rights."

"They are also entitled to free and easy access to the courts of justice or to the jurisdiction established by the laws and."

"In disregard of these rights," wrote Count Okuma, "400 Japanese subjects, after the expiration of their period of residence, were expelled from the country."

"It is not suggested that similar treatment would be accorded to Hawaiian citizens. In fact, the action was based upon the fact that persons concerned were aliens, who by a statutory fiction, were deemed to be without the territorial limits of Hawaii. The refusal of the court to intervene was a denial of justice. The conclusion being that the Japanese Government entertained the expectation that this Government will recognize the principle of indemnification and, further, that they will not be one of arbiters."

"The particulars regarding the amount of the claim, Count Okuma wrote, would be made the subject of a further communication, but I may say here, that the communication has not yet been received."

Mr. Cooper, continuing his conversation, said: "You will understand that my first letter was not one of argument or defense. It was a mere statement of facts. The correspondence which has followed has brought out other points, and now this Government has been charged with shifting its policy to suit the occasion."

"I replied to this letter on May 24th, and my answer to the first point in his communication was that the examination of the immigrants was before a competent tribunal, and the decision of the Supreme Court, sustaining the Customs authorities, was founded upon well-established principles, and the result having been arrived at, it is a complete assurance."

"The day Minister Shimamura, his Secretary and Mr. Humphreys went with me to the Quarantine Station," said Minister Cooper, "and the Minister asked for the private interview you will remember, I asked the purpose. Evidently there was a misunderstanding, for it seems he understood me to say 'result,' and in this long letter he discusses pretty freely this part of the subject and also the fact of the immigrants being removed from the ship. He says:

"Your Government is responsible, notwithstanding the laws, if they infringe on international precedents. Having come within the jurisdiction of your courts, they are clearly within the territory of the Republic. I do not mean at all," wrote Minister Shimamura, "to enter into a discussion of the nature of the examination of the Customs authorities and whether that examination is final or not. The Hawaiian Government must naturally have responsibility for the fairness and righteousness of examination."

"Reference was made in this letter to a case in November, 1896, when Chief Justice Judd, acting as a single Justice, decided that a man with a certificate of deposit on a bank here, was eligible to land, as the certificate of deposit was legal under the act."

"But under a later decision, continued Minister Cooper, 'the Supreme Court decided that it has no jurisdiction other than to inquire whether the law has been complied with.'"

"Minister Shimamura, in his letter, stated that the immigrants did not know the decision of the Customs authorities, and that they were returned to the ship through menace and cheat. The Minister said, further:

"But what I wish to know is, why the Hawaiian Government has not for the trouble to notify us? If you had intimated to us a change in your immigration policy, then these people would not have come. I am sure the Japanese Government will not stop in this matter until it has received the most satisfactory answer." This was answered by me on June 25th, in which I stated the cause of the extension of quarantine. I also reviewed the connection of Kinney & Ballou and repeated that there had been no request made upon them by the immigrants for a writ of habeas corpus. I stated that Kinney & Ballou, when the case was in court, repeatedly refused to answer my question as to who retained them. This supports the previous contention that the immigrants had not asked to see counsel and consequently were not denied the right to see attorneys. They had been and were never denied. I stated that his complaint that he was denied a private examination amounted to nothing, because he had been granted the right to see the Supreme Court. I stated that the Legislature had the right to establish the tribunal as it may see fit, and that the decision is final. The fact remains that the petition of S. M. Ballou was never heard on behalf of the immigrants, but the decision was to the effect that the Supreme Court has decided that all proceedings relative to their rights of immigrants to enter a country have been properly conducted, so that after all has been said, nevertheless they have had their day in court."

"I wrote him that I understood from his letter that he did not intend to discuss the merits of the proceedings before the Customs authorities. Regarding the admission of women, having relatives here, I stated that this was in accordance with a previous ruling by this department, and as to men who previously resided here, they were admitted for the reason that the Government considered their status different and did not care to raise the question of vested rights."

"The Japanese Government contends that we cannot go behind the simple possession of the \$50. The law, construed differently, in this case 'possession' is synonymous with ownership. I cannot give you money merely to get back to me as you step off the gang-plank. The money these men had, it appears, was handed them in a self-sufficient manner, an act in itself sufficient to warrant their being sent back. I contend that the burden of proof is on the immigrant, not upon the Government; he is to prove ownership of money. I understand that the memorandum which these men carried with them within the purview of Section 1, Act 17, Laws of 1895, and the mere fact that it might, under certain circumstances, be applied for the immigrant to avail himself of the employment guaranteed, does not take it out of the provisions of Section 1, Act 17. It became very apparent, by the guarantee given by the immigration company, that it would do everything in its power to supply employment for the men, could not be carried out by it."

"It was well known to the Executive that the planters had been supplied with all the labor necessary, and that through the proper channels more men would mean an over-supply. It is further clearly shown that these immigrants were all agricultural laborers, and as such did not come within the terms of the treaty of 1897, which clearly limits the immigration of the Japanese subjects to the merchant class. This interpretation of the treaty has been adopted by the Japanese authorities regarding the immigration of Hawaiian citizens, and the mere fact that heretofore the immigrants from Japan of this character have been allowed to enter this country is no answer to the question. The position is, in fact, limited in its scope, and does not bind this country to accept immigrants from Japan of the class in which the person in question belongs."

"This is more conclusively shown than when the immigration of this class was about to begin it was found necessary to enter into a convention under which the immigration Japanese subjects was successfully carried on to the satisfaction of this Government. Emigrants who have left Japan, not under the auspices of the convention, but under contract, are not in the form of which has been approved by the Board of Immigration, may well be considered to be voluntary emigrants, coming neither under the provisions of the treaty or the convention. This Government was glad to welcome such sub-

on international precedents. Having come within the jurisdiction of your courts, they are clearly within the territory of the Republic. I do not mean at all," wrote Minister Shimamura, "to enter into a discussion of the nature of the examination of the Customs authorities and whether that examination is final or not. The Hawaiian Government must naturally have responsibility for the fairness and righteousness of examination."

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